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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/724,544

12/01/2003

James R. Copeland

JC-JS1

1860

29369

7590

02/08/2007

PATRICK D. KELLY

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EXAMINER

HAWK, NOAH CHANDLER

ART UNIT

PAPER NUMBER

3636

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/724,544	<b>Applicant(s)</b> COPELAND, JAMES R.	
	<b>Examiner</b> Noah C. Hawk	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 7, 13 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-12, 14-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 7, 13, and 17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/20/06.
2. Applicant's election with traverse of Group I in the reply filed on 11/20/06 is acknowledged. The traversal is on the ground(s) that the brackets shown in Groups II, III and IV merely present more detailed views of the brackets or alternate or optional features. This is not found persuasive because : the brackets presented in Figures 2 and 3 clearly disclose different features than those in figures 1, 4, 5 and 6, namely the shoulder feature 115 and the alternate form of the flange 128 shown in Figure 3. The mere use of the same general callout numbers (110 and 120) for the brackets does not inherently make the two different embodiments of the brackets the same. The additional elements presented in Figures 2 and 3 that are not present in the other figures cause these figures to be considered alternate embodiments of the invention. The lack of the flange and alternate mounting scheme presented in Figure 7 cause this figure to be considered an alternate embodiment. Additionally, the brackets appear to be on approximately the same scale in Figures 1, 2, 3 and 7, so there is no reason *other than to present additional embodiments* not to show all of the essential details of the brackets in every figure, even if they are not specifically called out in every figure. The

embodiment presented in Figure 8 clearly presents features not found in any of the other embodiments and is therefore considered a separate species due to the additional technical search required of the features presented therein.

3. The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Genereaux in US Patent 4699437. Genereaux teaches a device for storing objects between building joists comprising a supporting shelf (8) having first (X1) and second (X2) edge rails, at least one first supporting bracket (50), at least one second supporting bracket (52), wherein the first and second brackets are designed to allow the storage device to be mounted and operated without requiring physical alteration of the shelf or brackets between two adjacent building joists. Genereaux further teaches that the first supporting brackets constrain the first edge rail (via ends 60 and 62) from disengaging from the brackets unless intentionally disengaged. Genereaux also teaches a storage compartment (12) affixed to the shelf. Please note: it is well known standard practice for building joists to be mounted on 16-inch centers, which is "about 15.5 to about 17.5 inches."

***Claim Rejections - 35 USC § 103***

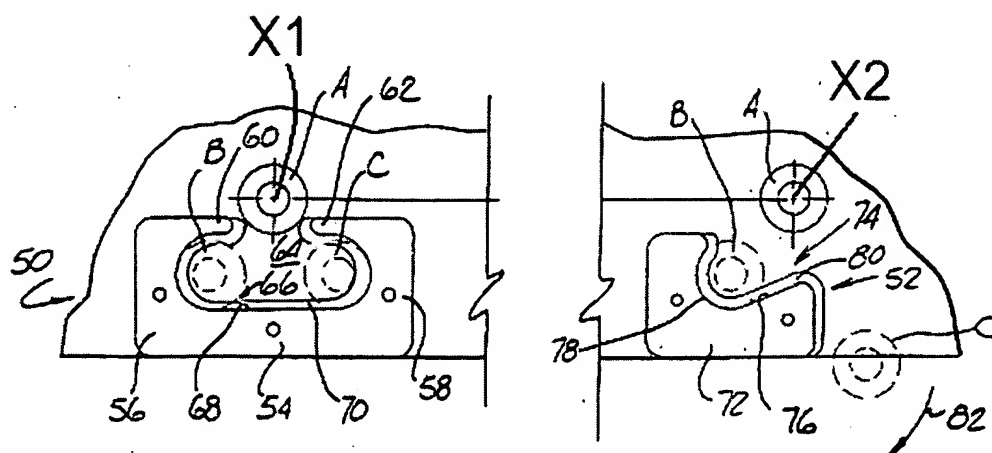
6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Genereaux in US Patent 4699437 in view of Quallich US Patent 4955487. Genereaux teaches a storage device having a storage compartment (12) with a size allowing it to fit between two adjacent building joists (best seen in Figure 1), a supporting shelf (8) having first (X1, best seen in Figure 3, below) and second (X2) edge rails and a width of (represented by element 11), two first supporting brackets (50) providing essentially horizontal traversable support surfaces (70) with approximately 1.5 inches of travel (the horizontal support surfaces appear to be approximately 1.5 inches long in Figure 1) and two second supporting brackets (52) providing concave support (78) for the second edge, wherein the brackets are designed to allow the mounting of the storage device between two adjacent building joists without alteration of the brackets or the shelf (no modification is necessary, as these elements are added to extant building joists). Genereaux further teaches means for attaching the storage compartment to the storage shelf ("panels 14 [which form compartments 12] are secured as desired to the..." See Column 3, lines 5-7). Although Genereaux is silent on the exact width (represented by element 11) of the shelf, the Office takes official notice that building joists are generally

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constructed between 16 and 18 inches apart. The width 11 would therefore necessarily be between 16 and 18 inches (to fit, as shown, between the joists 4). Genereaux fails to teach that the first brackets are on one joist and that the second brackets are on a second joist. Quallich teaches a storage device for use between building joists in which the device hinges from one joist (at ledge 2a) and away from a second joist (at ledge 1a). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device by turning it 90 degrees and mounting the first brackets on a first joist and the second brackets on a second joist as taught by Quallich in order to allow the user to reduce the swinging weight at the free end of the compartment when it is opened.



Genereaux, Figure 3

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8. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Genereaux in view of Quallich. Genereaux teaches a device for storing physical objects between building joists comprising a supporting shelf (8) having first (X1) and second (X2) edge rails, two first supporting brackets (50), supporting a first edge rail of the shelf and allowing the first edge rail to travel across essentially horizontal traversable surfaces (70) and providing a constraining component on the brackets, two second brackets (52) supporting a second edge rail of the shelf and providing concave support surfaces (78) for the second edge rail. Genereaux further teaches that the shelf and brackets are designed to allow the mounting of the storage device between two adjacent building joists without alteration of the brackets or the shelf (no modification is necessary, as these elements are added to extant building joists). It is well known standard practice in the art for building joists to be built on 16- to 18-inch centers, so the width of the Genereaux device (represented by element 11) is inherently between approximately 15.5 and 17.5 inches and the slidable surface provided by the first brackets appears to be approximately 1.5 inches (best seen in Figure 1). Genereaux fails to teach that the first brackets are mounted on a first joist and that the second brackets are mounted on a second joist. Quallich teaches a storage device for use between building joists in which the device hinges from one joist (at ledge 2a) and away from a second joist (at ledge 1a). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device by turning it 90 degrees and mounting the first brackets on a first joist and the second brackets on a second joist as

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taught by Quallich in order to allow the user to reduce the swinging weight at the free end of the compartment when it is opened.


### **Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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DAVID R. DUNN  
PRIMARY EXAMINER